

Senate Bill No. 938

CHAPTER 280

An act to amend Sections 1808.4 and 2431 of the Vehicle Code, relating to the Department of Motor Vehicles.

[Approved by Governor September 23, 2010. Filed with
Secretary of State September 24, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 938, Huff. Department of Motor Vehicles: records: confidentiality.

(1) Existing law prohibits the disclosure of the home addresses of certain public employees and officials that appear in any records of the Department of Motor Vehicles, except to a court, a law enforcement agency, an attorney in a civil or criminal action under certain circumstances, and certain other official entities. Existing law prohibits the disclosure of the home address of the spouse or child of those specified public employees and officials, and of the surviving spouse or child of a peace officer who died in the line of duty.

This bill would allow disclosure of the home addresses of those spouses, surviving spouses, or children if they were convicted of a crime and are on active parole or probation. The bill would require the person requesting confidentiality for their spouse or child, on or after January 1, 2011, to declare, at the time the request is made, whether their spouse or child has been convicted of a crime and is on active parole or probation. The bill would specify that neither the department nor the listed person's employer is required to verify or be responsible for verifying that the specified person was convicted of a crime and on active parole or probation.

(2) Existing law requires the commissioner of the California Highway Patrol, for the purpose of conducting criminal history and driver history screening of tow truck drivers and employers to utilize the California Law Enforcement Telecommunications System (CLETS) to conduct preliminary criminal history checks.

This bill would delete this requirement.

Existing law requires the Department of the California Highway Patrol to issue a 90-day temporary tow truck driver certificate, provided by the Department of Motor Vehicles, to applicants who have cleared, among other things, the preliminary criminal history check through CLETS.

This bill instead would require the department to issue the 90-day temporary tow truck driver certificate to applicants who have cleared, among other things, a criminal history check through the Department of Justice.

The people of the State of California do enact as follows:

SECTION 1. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. (a) For all of the following persons, his or her home address that appears in a record of the department is confidential if the person requests the confidentiality of that information:

- (1) Attorney General.
- (2) State Public Defender.
- (3) A Member of the Legislature.
- (4) A judge or court commissioner.
- (5) A district attorney.
- (6) A public defender.
- (7) An attorney employed by the Department of Justice, the office of the State Public Defender, or a county office of the district attorney or public defender.
- (8) A city attorney and an attorney who submits verification from his or her public employer that the attorney represents the city in matters that routinely place the attorney in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts, if that attorney is employed by a city attorney.
- (9) A nonsworn police dispatcher.
- (10) A child abuse investigator or social worker, working in child protective services within a social services department.
- (11) An active or retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.
- (12) An employee of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or the Prison Industry Authority specified in Sections 20403 and 20405 of the Government Code.
- (13) A nonsworn employee of a city police department, a county sheriff's office, the Department of the California Highway Patrol, a federal, state, or local detention facility, or a local juvenile hall, camp, ranch, or home, who submits agency verification that, in the normal course of his or her employment, he or she controls or supervises inmates or is required to have a prisoner in his or her care or custody.
- (14) A county counsel assigned to child abuse cases.
- (15) An investigator employed by the Department of Justice, a county district attorney, or a county public defender.
- (16) A member of a city council.
- (17) A member of a board of supervisors.
- (18) A federal prosecutor, criminal investigator, or National Park Service Ranger working in this state.
- (19) An active or retired city enforcement officer engaged in the enforcement of the Vehicle Code or municipal parking ordinances.
- (20) An employee of a trial court.
- (21) A psychiatric social worker employed by a county.
- (22) A police or sheriff department employee designated by the Chief of Police of the department or the sheriff of the county as being in a sensitive

position. A designation pursuant to this paragraph shall, for purposes of this section, remain in effect for three years subject to additional designations that, for purposes of this section, shall remain in effect for additional three-year periods.

(23) A state employee in one of the following classifications:

(A) Licensing Registration Examiner, Department of Motor Vehicles.

(B) Motor Carrier Specialist 1, Department of the California Highway Patrol.

(C) Museum Security Officer and Supervising Museum Security Officer.

(24) (A) The spouse or child of a person listed in paragraphs (1) to (23), inclusive, regardless of the spouse's or child's place of residence.

(B) The surviving spouse or child of a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, if the peace officer died in the line of duty.

(C) (i) Subparagraphs (A) and (B) shall not apply if the person listed in those subparagraphs was convicted of a crime and is on active parole or probation.

(ii) For requests made on or after January 1, 2011, the person requesting confidentiality for their spouse or child listed in subparagraph (A) or (B) shall declare, at the time of the request for confidentiality, whether the spouse or child has been convicted of a crime and is on active parole or probation.

(iii) Neither the listed person's employer nor the department shall be required to verify, or be responsible for verifying, that a person listed in subparagraph (A) or (B) was convicted of a crime and is on active parole or probation.

(b) The confidential home address of a person listed in subdivision (a) shall not be disclosed, except to any of the following:

(1) A court.

(2) A law enforcement agency.

(3) The State Board of Equalization.

(4) An attorney in a civil or criminal action that demonstrates to a court the need for the home address, if the disclosure is made pursuant to a subpoena.

(5) A governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(c) (1) A record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record.

(2) Following termination of office or employment, a confidential home address shall be withheld from public inspection for three years, unless the termination is the result of conviction of a criminal offense. If the termination or separation is the result of the filing of a criminal complaint, a confidential home address shall be withheld from public inspection during the time in which the terminated individual may file an appeal from termination, while an appeal from termination is ongoing, and until the appeal process is

exhausted, after which confidentiality shall be at the discretion of the employing agency if the termination or separation is upheld. Upon reinstatement to an office or employment, the protections of this section are available.

(3) With respect to a retired peace officer, his or her home address shall be withheld from public inspection permanently upon request of confidentiality at the time the information would otherwise be opened. The home address of the surviving spouse or child listed in subparagraph (B) of paragraph (24) of subdivision (a) shall be withheld from public inspection for three years following the death of the peace officer.

(4) The department shall inform a person who requests a confidential home address what agency the individual whose address was requested is employed by or the court at which the judge or court commissioner presides.

(d) A violation of subdivision (a) by the disclosure of the confidential home address of a peace officer, as specified in paragraph (11) of subdivision (a), a nonsworn employee of the city police department or county sheriff's office, or the spouses or children of these persons, including, but not limited to, the surviving spouse or child listed in subparagraph (B) of paragraph (24) of subdivision (a), that results in bodily injury to the peace officer, employee of the city police department or county sheriff's office, or the spouses or children of these persons is a felony.

SEC. 2. Section 2431 of the Vehicle Code is amended to read:

2431. (a) For the purposes of conducting criminal history and driver history screening of tow truck drivers and employers, the commissioner shall do all of the following:

(1) Obtain fingerprints from tow truck drivers and employers. The fingerprint cards will be submitted to the Department of Justice for criminal history checks.

(2) Obtain a second set of fingerprints from applicants who have not continuously resided in the state for the previous seven years, and submit that card to the Federal Bureau of Investigation for out-of-state criminal history checks. The department may charge a fee sufficient to cover the additional expense of processing the fingerprint cards through the Federal Bureau of Investigation.

(3) Verify that the tow truck driver or employer, or both, have a valid California driver's license, through the use of the automated records system.

(b) On and after July 1, 1992, all tow truck drivers shall submit an application for the issuance of a tow truck driver certificate with the department and pay an application fee equal to the actual costs of a criminal history check and issuance of the tow truck driver's certificate, but not more than fifty dollars (\$50). Applicants for the renewal of an expired tow truck driver certificate or applicants for a duplicate tow truck driver certificate shall submit an application for issuance of a new tow truck driver certificate to the Department of Motor Vehicles and pay an application fee of twelve dollars (\$12).

All fees collected pursuant to this section shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the

fees paid shall be made available, upon appropriation, to the Department of Motor Vehicles for its administrative costs, for the cost of criminal history checks to be conducted by the Department of Justice, and to the department for its administrative costs. In no case shall the fees collected exceed the costs of administering this section.

(c) Applicants for an original tow truck driver certificate shall be fingerprinted by the department, on a form issued by the department, for submission to the Department of Justice for the purpose of determining whether the applicant has been convicted for a violation of a crime specified in paragraph (1), (2), (3), or (4) of subdivision (a) of Section 13377.

(d) Information released to the department or the Department of Motor Vehicles shall be related to their inquiry and shall remain confidential.

(e) The department shall issue a temporary tow truck driver certificate, provided by the Department of Motor Vehicles, to applicants who have cleared the specified criminal history check pursuant to paragraph (1) of subdivision (a) and the driver history check through the automated records system, and who meet all other applicable provisions of this code. The term of the temporary tow truck driver's certificate shall be for a period of 90 days from the date of issuance.